

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	Cr. No. 14-00688 HG
)	
Plaintiff,)	(1) ORDER DENYING PLAINTIFF
)	LUKE WARNER'S MOTION FOR
vs.)	TRANSCRIPTS PAID BY THE
)	COURT, AND (2) FINDINGS
LUKE J. WARNER,)	AND RECOMMENDATION TO
)	DENY PLAINTIFF LUKE J.
Defendant.)	WARNER'S IFP APPLICATION
)	AS MOOT
_____)	

(1) ORDER DENYING PLAINTIFF LUKE J. WARNER'S MOTION FOR
TRANSCRIPTS PAID BY THE COURT, AND (2) FINDINGS AND
RECOMMENDATION TO DENY PLAINTIFF LUKE J. WARNER'S IFP
APPLICATION AS MOOT

I. Plaintiff's Motion for Transcripts Paid by the Court

On January 19, 2017, the Court received Plaintiff Luke J. Warner's
("Plaintiff") Motion for Transcripts Paid by the Court ("Motion"). ECF No. 55.

There is no pending matter before the Court in this case, and Plaintiff has not
filed any motion that would require a copy of his case transcripts. In addition,
Plaintiff has not provided any reason why the transcripts are necessary.

To the extent that Plaintiff intends to file a 28 U.S.C. § 2255 motion ("2255
motion"), Plaintiff is not entitled to transcripts at the Court's expense before he has
filed a 2255 motion. 28 U.S.C. § 753(f) provides for a free transcript for indigent
prisoners asserting a claim under 28 U.S.C. § 2255 *if* a judge certifies that the

asserted claim is “not frivolous” and that the transcript is “needed to decide the issue.” *United States v. MacCollom*, 426 U.S. 317, 320–21 (1976).

For the foregoing reasons, the Court finds that there is no sufficient basis for the Court to order copies of Plaintiff’s case transcripts at the Court’s expense and therefore DENIES the Motion.

II. In Forma Pauperis Application

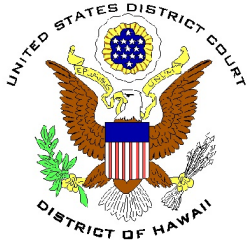
On January 19, 2017, the Court received Plaintiff’s Application to Proceed In Forma Pauperis (“IFP Application”). ECF No. 56. Plaintiff submitted an IFP Application to demonstrate his inability to pay for the case transcripts requested in Plaintiff’s Motion for Transcripts Paid by the Court. ECF No. 55 at 2. In light of the Court’s denial of Plaintiff’s Motion, the Court RECOMMENDS that Plaintiff’s IFP Application be DENIED as moot.

CONCLUSION

The Court DENIES Plaintiff’s Motion for Transcripts Paid by the Court and FINDS and RECOMMENDS that Plaintiff’s IFP Application be DENIED as moot.

IT IS SO ORDERED AND SO FOUND AND RECOMMENDED.

DATED: Honolulu, Hawai‘i, February 16, 2017.



/S/ Kenneth J. Mansfield
Kenneth J. Mansfield
United States Magistrate Judge

United States of America v. Warner; Cr. No. 14-688 HG; (1) Order Denying Warner’s Motion for Transcripts Paid by the Court, and (2) Findings and Recommendation to Deny Warner’s IFP Application as Moot.